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10	
	UNITED STATES DISTRICT COURT
11	NORTHERN DISTRICT OF CALIFORNIA
12	OAKLAND DIVISION
13	UNITED STATES OF AMERICA,) No. CR 08-0246 CW
14	Plaintiff, STIPULATION AND ORDER
15	v.) CONTINUING HEARING AND EXCLUDING TIME
16	KAO SAETURN, et al.,
17	Defendants.
18	
19	Plaintiff, by and through its attorney of record, and defendants, by and through their
20	attorneys of record, hereby stipulate and ask the Court to find as follows:
21	1. Defendants Saeturn and Saephan are charged in a second superseding indictment
22	with a variety of robbery and firearms-related offenses that subject defendants to significant
23	mandatory minimum sentences if convicted of all charges. Specifically, defendant Saeturn faces
24	a mandatory minimum 82-year sentence while defendant Saephan faces a mandatory minimum
25	57-year sentence. Defendants Dang, Phun, and Nguyen have already pleaded guilty. Related
26	defendant Soeung Mouv has also pleaded guilty. The matter is presently set for trial setting or
27	motions setting or disposition on Wednesday, September 16, 2009.

STIPULATION AND ORDER RESCHEDULING HEARING; EXCLUDING TIME

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- 2. For the reasons set forth below, the parties request that the September 16, 2009, hearing be continued until 2 p.m. on Wednesday, October 7, 2009, in order to provide the government with additional time to produce additional discovery (including grand jury transcripts for which the government will be filing an ex parte application for an order to produce) and to provide defendants' counsel with additional time to evaluate the discovery in this case and determine whether or not defendants should enter a change of plea or file motions and to prepare for trial in this matter. The government anticipates providing proposed plea agreements within the next week.
- 3. The parties believe that failure to grant the above-requested continuance would deny defendants continuity of counsel, would deny defendants' counsel and defendants the reasonable time necessary for effective preparation taking into account the exercise of due diligence, and that the ends of justice served by continuing the case as requested outweigh the interest of the public and defendants in a trial within the date prescribed by the Speedy Trial Act.
- 4. Thus, the parties respectfully request that the Court find that the time period from September 16, 2009, to October 7, 2009, is excludable pursuant to 18 U.S.C. §§ 3161(h)(7)(A), (B)(iv) because it results from a continuance granted by the Court at the defendants' request and on the basis of the Court's finding that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial and because failure to grant the continuance would unreasonably deny defendant continuity of counsel and would unreasonably deny defense counsel the time necessary for effective preparation for trial, taking into account due diligence.

IT IS SO STIPULATED.

JOSEPH P. RUSSONIELLO
United States Attorney

Dated: September 15, 2009

/s/
GARTH HIRE

GARTH HIRE
Assistant United States Attorney

1 Dated: September 15, 2009 2 Attorney for Defendant Kao Saeturn 3 4 Dated: September 15, 2009 5 **GAIL SHIFMAN** 6 Attorney for Defendant San Kwen Saephan 7 8 **ORDER** 9 FOR GOOD CAUSE SHOWN, THE COURT ADOPTS THE FINDINGS OF FACT AND 10 CONCLUSIONS OF LAW STIPULATED TO BY THE PARTIES. THEREFORE, IT IS SO 11 FOUND AND ORDERED THAT: 12 1. The currently scheduled September 16, 2009, hearing is vacated. A hearing for 13 trial setting or motions setting or disposition is now scheduled for 2:00 p.m. on October 7, 2009. 14 2. The time period from September 16, 2009, to October 7, 2009, is deemed 15 excludable pursuant to 18 U.S.C. §§ 3161(h)(7)(A), (B)(iv) because it results from a continuance 16 granted by the Court at the defendants' request and on the basis of the Court's finding that the 17 ends of justice served by taking such action outweigh the best interest of the public and the 18 defendants in a speedy trial and because failure to grant the continuance would unreasonably 19 deny defense counsel the time necessary for effective preparation for trial, taking into account 20 due diligence, as well as continuity of counsel. The Court finds that nothing in this stipulation 21 and order shall preclude a finding that other provisions of the Speedy Trial Act dictate that 22 additional time periods are excludable from the period within which trial must commence. 23 24 DATED: September 15, 2009 25 UNITED STATES DISTRICT JUDGE 26 27 28